
SENATE BILL No. 131

DIGEST OF INTRODUCED BILL

Citations Affected: IC 35-33-8-3.2.

Synopsis: Bail requirements. Allows a court that admits a defendant to bail to require the defendant to post a combination of property and surety bonds as a condition of bail. Provides that if a court requires a defendant to deposit cash in an amount equal to the defendant's bail, the court must require the defendant and each person who makes the deposit on behalf of the defendant to execute an agreement that allows the court to retain all or a part of the cash to pay: (1) publicly paid costs of representation; and (2) fines, costs, fees, and restitution that the court may order the defendant to pay if the defendant is convicted.

Effective: July 1, 2002.

Bray

January 7, 2002, read first time and referred to Committee on Judiciary.

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Second Regular Session 112th General Assembly (2002)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

SENATE BILL No. 131

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 35-33-8-3.2, AS AMENDED BY P.L.1-2001,
2 SECTION 36, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2002]: Sec. 3.2. (a) A court may admit a defendant to bail and
4 impose any of the following conditions to assure the defendant's
5 appearance at any stage of the legal proceedings, or, upon a showing
6 of clear and convincing evidence that the defendant poses a risk of
7 physical danger to another person or the community, to assure the
8 public's physical safety:
9 (1) Require the defendant to:
10 (A) execute a bail bond with sufficient solvent sureties;
11 (B) deposit cash or securities in an amount equal to the bail;
12 (C) execute a bond secured by real estate in the county, where
13 thirty-three hundredths (0.33) of the true tax value less
14 encumbrances is at least equal to the amount of the bail;
15 (D) post a real estate bond; **or**
16 **(E) perform any combination of the requirements**
17 **described in clauses (A) through (D).**



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If the court requires the defendant to deposit cash in an amount equal to the bail, the court shall require the defendant and each person who makes the deposit on behalf of the defendant to execute an agreement that allows the court to retain all or a part of the cash to pay publicly paid costs of representation and fines, costs, fees, and restitution that the court may order the defendant to pay if the defendant is convicted.

(2) Require the defendant to execute:

(A) a bail bond by depositing cash or securities with the clerk of the court in an amount not less than ten percent (10%) of the bail; ~~if the defendant is convicted, and~~

(B) an agreement that allows the court may to retain all or a part of the cash or securities to pay fines, costs, fees, and restitution if ordered by that the court may order the defendant to pay if the defendant is convicted.

A portion of the deposit, not to exceed ten percent (10%) of the monetary value of the deposit or fifty dollars (\$50), whichever is the lesser amount, may be retained as an administrative fee. The clerk shall also retain from the deposit under this subdivision ~~the following:~~

~~(A)~~ fines, costs, fees, and restitution as ordered by the court, ~~(B)~~ **and** publicly paid costs of representation that shall be disposed of in accordance with subsection (b).

~~(C)~~ In the event of the posting of a real estate bond, the bond shall be used only to insure the presence of the defendant at any stage of the legal proceedings, but shall not be foreclosed for the payment of fines, costs, fees, or restitution.

The individual posting bail for the defendant or the defendant admitted to bail under this subdivision must be notified by the sheriff, court, or clerk that the defendant's deposit may be forfeited under section 7 of this chapter or retained under subsection (b).

(3) Impose reasonable restrictions on the activities, movements, associations, and residence of the defendant during the period of release.

(4) Require the defendant to refrain from any direct or indirect contact with an individual.

(5) Place the defendant under the reasonable supervision of a probation officer or other appropriate public official.

(6) Release the defendant into the care of a qualified person or organization responsible for supervising the defendant and

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1 assisting the defendant in appearing in court. The supervisor shall
 2 maintain reasonable contact with the defendant in order to assist
 3 the defendant in making arrangements to appear in court and,
 4 where appropriate, shall accompany the defendant to court. The
 5 supervisor need not be financially responsible for the defendant.

6 (7) Release the defendant on personal recognizance unless:

7 (A) the state presents evidence relevant to a risk by the
 8 defendant:

9 (i) of nonappearance; or

10 (ii) to the physical safety of the public; and

11 (B) the court finds by a preponderance of the evidence that the
 12 risk exists.

13 (8) Impose any other reasonable restrictions designed to assure
 14 the defendant's presence in court or the physical safety of another
 15 person or the community.

16 (b) Within thirty (30) days after disposition of the charges against
 17 the defendant, the court that admitted the defendant to bail shall order
 18 the clerk to remit the amount of the deposit remaining under subsection
 19 (a)(2) to the defendant. The portion of the deposit that is not remitted
 20 to the defendant shall be deposited by the clerk in the supplemental
 21 public defender services fund established under IC 33-9-11.5.

22 (c) For purposes of subsection (b), "disposition" occurs when the
 23 indictment or information is dismissed, or the defendant is acquitted or
 24 convicted of the charges.

25 (d) With the approval of the clerk of the court, the county sheriff
 26 may collect the bail posted under this section. The county sheriff shall
 27 remit the bail to the clerk of the court by the following business day.

28 (e) When a court imposes a condition of bail described in subsection
 29 (a)(4):

30 (1) the clerk of the court shall comply with IC 5-2-9; and

31 (2) the prosecuting attorney shall file a confidential form
 32 prescribed or approved by the division of state court
 33 administration with the clerk.

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